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SERVICE DATE – DECEMBER 14, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 424X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN DAWSON
AND McCONE COUNTIES, MT

Decided: December 13, 2005

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 43.41-mile line of railroad extending between milepost 7.00 near Glendive and milepost 50.41 in Circle, in Dawson and McCone Counties, MT. Notice of the exemption was served and published in the Federal Register on November 5, 2004 (69 FR 64631). The exemption became effective on December 7, 2004.

By decision served on December 6, 2004 (December 2004 decision), the proceeding was reopened at the request of the Board’s Section of Environmental Analysis (SEA) and the exemption was made subject to three environmental conditions. One of the conditions imposed required BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

SEA now indicates that a Memorandum of Agreement (MOA), executed by the Montana Historical Society, McCone County Museum, BNSF, and the Board was negotiated to comply with the section 106 process to mitigate potential harm to historic resources as a result of the abandonment and/or discontinuance of service and the disposition of BNSF’s assets on the line. SEA states that the execution of the MOA and the filing of the MOA with the Advisory Council on Historic Preservation completes SEA’s compliance responsibilities under section 106 of NHPA. Therefore, SEA recommends that the historic preservation condition imposed in the December 2004 decision be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the section 106 historic preservation condition imposed in the December 2004 decision is removed.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary